



Report to Planning & Zoning Commission

Clay County, Missouri

Case Number	August 11-106CUP
Case Type	Conditional Use Permit
Project Name	Petty Farms Cell Tower – 13222 NE 112th Street

Contact	Jeff Barnett 1001 Craig Rd., Suite 445 St. Louis, MO 63146
Applicant	Kelly Loebig, Property Manager Global Signal Acquisitions IV LLC. 2000 Corporate Drive Canonsburg, PA 15317
Owner	Petty Farms, Inc. c/o Harold L. Petty 13222 NE 112 th Street Liberty, MO 64068
Request	Renewal of a Conditional Use Permit (CUP) for an existing commercial wireless communication tower on Agriculturally (AG) zoned property.

Application Submittal	2011-06-27
Public Notice Published	2011-07-14
Neighbor Letters Sent	2011-07-15
Report Date	2011-07-22

REPORT AUTHOR(S)	Debbie Viviano, Planner Matt Tapp, Director
Recommendation	APPROVAL with conditions



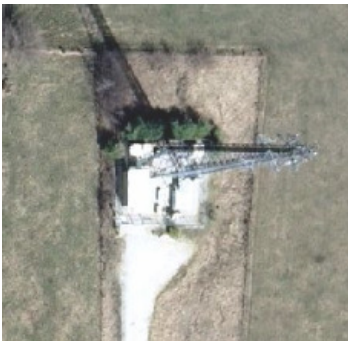
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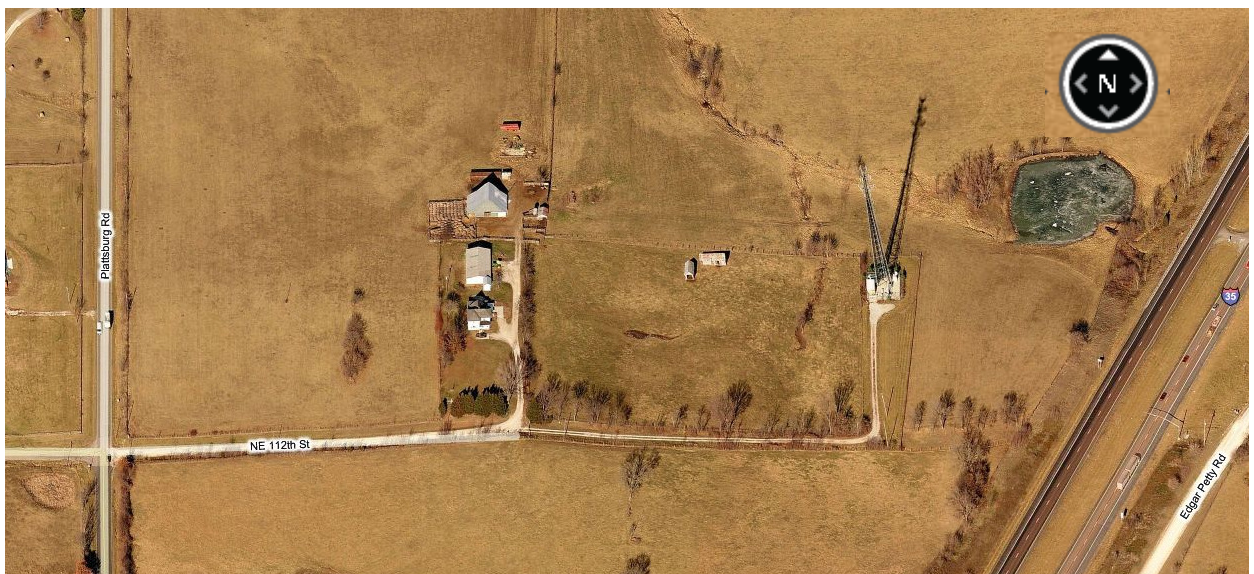
General Information

- Site Location:** Approx. 13222 NE 112th Street
Liberty, MO 64068
Section 20 | Township 52 | Range 31
- Site Size:** 2.978 acres +/-
- Existing LandUse & Zoning:** Agricultural (AG)
- Zoning/Platting History:** July 96-144CUP-Res.#96-410 –cell tower approved by CC 8/26/1996 for 15 years.
- Surrounding LandUse & Zoning:**
- North – Agriculturally-zoned land, Berkshire Glen (R-1B), R-1 zoned subdivisions
 - East – Agriculturally-zoned land, I-35, Vassar Acres (R-1A)
 - South – City of Liberty
 - West – Agriculturally-zoned land, Private Gardens (R-1B)

Current conditions:



Provided by GIS/Mapping,
Clay County Assessor



Oblique Aerial Photo



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PICTURES:

Provided by the Clay County Assessor:

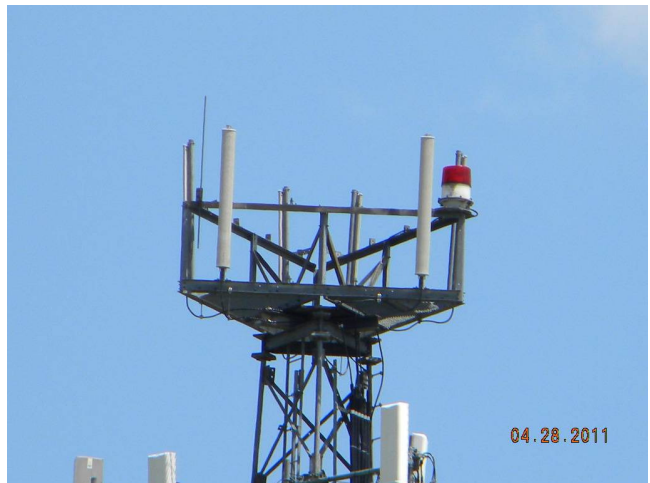


Provided by the Applicant:

Fencing & Landscaping



Lighting



Signs





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Assessment

Applicant Kelly Loebig of Global Signal Acquisitions IV LLC authorized Jeffrey Barnett to represent her as the agent for owner Harold L. Petty, Petty Farms, Inc. is requesting approval for the renewal of a **Conditional Use Permit (CUP)** for an existing commercial wireless communication tower/antenna at approximately 13222 NE 112th Street. The leased area for the tower is approximately 2.978± acres and the parcel is a total of 158.9 acres +/- of Agriculturally (AG) zoned land.

The agent, applicant, and property owner initiated this request in order to renew the Conditional Use Permit (CUP) for the existing approximate 210' high lattice commercial wireless communication tower.

Character of the General Neighborhood

The subject property is just to the north of the City of Liberty along NE 112th Street with Plattsburg Road on the west and I-35 abutting on the east. Agricultural-zoned property is on all sides of the property, with the subdivisions of Private Gardens (R-1B) to the west, and Berkshire Glen (R-1B), and R-1 zoned land to the north. (see "Attachment B – Existing Conditions Map").

Air Navigation Considerations

The subject tower falls within the Roosterville Airport FAA Notification Area, but not within the Midwest National Air Center further to the east. The tower location is approximately 1.6 miles from the northern end of the runway for the Roosterville Airport.

The applicant submitted an FAA "Acknowledgement of Notice of Proposed Construction or Alteration" that included an aeronautical study from when the tower was originally proposed in 1996 indicating the FAA found that the tower would *not* exceed their obstruction standards and *not* be a hazard to air navigation.

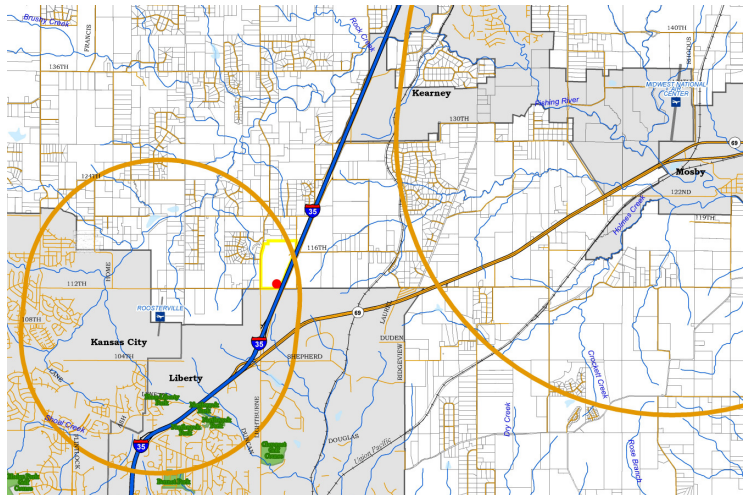


Figure 1: FAA Notification Areas

Figure 1 to the right illustrates the following:

- Subject tower location – red dot
- Subject property – yellow area
- FAA 7460 Notification Areas – orange-colored rings
 - Smaller to west – Roosterville Airport
 - Larger to east – Midwest National Air Center (MNAC)

Code Considerations

The subject request for a renewal of a commercial communication tower is addressed under two separate portions of the 2003 Clay County Land Development Code ("LDC"). The use table inside Section 151-6.1 includes a "Communication Towers, Commercial" designation requiring approval of a Conditional Use Permit ("CUP") in an Agricultural ("AG") zoning district. As such, the subject request must meet all of the approval criteria for a CUP in Section 151-3.9 (A) (13) detailed below:

- a. The proposed use complies with the intent of the Comprehensive Plan and general provisions of the Land Development Code.
- b. The use in its proposed location will not have a substantial adverse impact on the public health, safety and general welfare.
- c. The proposed use will not cause substantial injury to the value of other property in the vicinity.



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- d. Adequate access routes will be provided and designed to prevent traffic hazards and to minimize traffic congestion in public areas.
- e. Adequate public safety, transportation and utilities will be available to service the property while maintaining adequate levels of service for existing development, and
- f. The proposed use is compatible with adjacent uses in terms of scale, site design, and operating characteristics.

The LDC also provides certain use standards detailed below for "Antennas and Towers (Commercial)" within Section 151-6.2 (G), which the subject request applies:

1) Federal Requirements

STAFF RESPONSE: An aeronautical study was conducted by the FAA in 1996 which found "the structure does not exceed obstruction standards and would not be a hazard to air navigation" signed August 20, 1996. The tower is registered with the Federal Communications Commission (FCC).

- 2) Abandoned Towers – The LDC requires abandoned towers be removed at the owner's expense, and that a bond or letter of credit be maintained for this purpose in the County Clerk's Office. The amount shall be equal to a demolition bid of the tower structure, updated every 5 years.

STAFF RESPONSE: This was not required at the time of the original CUP approval in 1996.

- 3) Inspection – The tower shall be inspected every 24 months by a registered structural engineer.

STAFF RESPONSE: A copy of an inspection report dated April 4, 2011 has been provided.

- 4) Accessory Equipment Storage – mobile equipment or equipment not used in direct support of a tower facility shall not be stored or parked on the site.

STAFF RESPONSE: Staff reviewed the subject site and it does not appear these activities were present.

- 5) Fences – Towers shall be enclosed by security fencing not less than 6 feet in height with anti-climbing device, and have a locked gate. Security signs shall be posted on the outward face of the fence, indicating "No Trespassing", "High Voltage" and any other pertinent information.

STAFF RESPONSE: Pictures were submitted by the applicant (see above) showing the pre-existing fencing, and a letter dated July 1, 2011 detailing that the subject site has a 6' fence and associated screening.

- 6) Lighting – If lighting is a requirement of the FAA, lighting alternatives and design will be considered that would cause the least disturbance to the surrounding properties. The FAA specified in the 7460 permit for the structure to be obstruction marked and lighted.

STAFF RESPONSE: Pictures were submitted by the applicant (see above) showing a pre-existing dual red/medium intensity white lighting system.

- 7) Landscaping – The tower compound shall be landscaped with a buffer of plant materials that effectively screens the compound from adjacent property.

STAFF RESPONSE: Please reference the above pictures taken by the Clay County Assessor note the landscaping/screening.



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- 8) Co-locations – The LDC requires that all towers be constructed for a capacity of 3 times the intended use in order that secondary users may lease the balance of the tower capacity.

STAFF RESPONSE: *With an overall height of 210 feet, the LDC encourages co-location of a minimum of three (3) users on the proposed tower. The existing tower currently has a total of four (4) users:*

- #1 (original) – Sprint*
- #2 – Nextel (now merged with Sprint)*
- #3 – Cricket*
- #4 – USA Mobility*

- 9) Separation from Existing Towers – A lattice tower design such as the subject tower shall be at least 5,000 feet from another lattice or guyed existing tower and at least 1,500 from a monopole tower.

STAFF RESPONSE: *No existing towers have been identified within 5,000 feet of the existing tower location. At approximately 2,300 feet to the North is the Public Water Supply District #6 water tower, which is the closet tall structure from the existing tower.*

- 10) Height and setback – No tower shall exceed 300 total feet above ground level, and must be setback a minimum distance equal to 66% of the height of the tower from all adjoining property lines.

STAFF RESPONSE: *The cell tower is approximately 210 feet in height, thus establishing a 66% minimum setback of 138.60 feet.*

The setbacks are as follows [approximate calculations]:

<i>North Property Line</i>	<i>3,150'</i>	<i>East Property Line</i>	<i>332'</i>
<i>South Property Line</i>	<i>325'</i>	<i>West Property Line</i>	<i>1,155'</i>

Outside Agency Review

An aeronautical study was conducted by the in 1996 which found “the structure does not exceed obstruction standards and would not be a hazard to air navigation”. A “Determination of No Hazard to Air Navigation” confirmation (i.e. Form 7460) from the FAA dated August 20, 1996.

A Structural Analysis Report was completed by a Registered Professional Engineer in the State of Missouri dated April 4, 2011. The report notes the following: “*The purpose of the analysis is to determine acceptability of the tower stress level. Based on our analysis we have determined the tower stress level for the structure and foundation, under the following load case, to be: **Sufficient Capacity.***”

The Clay County Highway Department approved this request on July 11, 2011, and commented that “CUP renewal poses no changes to roadway access to cell tower.”

Since no sanitary services are on site, no comments were necessary from the Clay County Health Department. Visits by service personnel are typically of short duration requiring no sanitary facilities.



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Recommendations

Staff recommends **approval** for renewal of a **Conditional Use Permit** for an existing commercial wireless communication tower/antenna at approximately 13222 NE 112th Street with the following ten (10) conditions as shown on "Exhibit A".

Exhibit A

1. The CUP shall be based on a time frame of fifteen (15) years.
2. One co-location shall be granted at no charge to the Clay County Sheriff Department and/or any other authorized public safety responder which serves the subject area.
3. The applicant will have the option of granting at least three (3) subleases for additional users ("co-locations"). The Clay County Planning & Zoning office must be notified of any additional users by form of a letter that must also include an engineering certification indicating the existing tower structure can handle the increased weight and that the associated equipment was properly installed.
4. Once approved, this CUP is transferable to new assigns of the lease; however, such parties must file new contact information with the Clay County Planning & Zoning office within 60 days of the transfer of ownership or be subject to a new CUP.
5. Building Permits are required when additional antennas are proposed, including a report from a structural engineer registered in the State of Missouri indicating that the existing structure is capable of supporting the additional weight. Such report shall be obtained at the expense of the applicant.
6. If the tower is damaged or destroyed, the applicant will have 120 days for repair or dismantle of the facility.
7. The applicant and property owner shall carry insurance which excuses Clay County for any liability and shall provide the County with a certificate of insurance showing coverage with an aggregate limit of \$2,000,000.
8. The LDC requires abandoned towers be removed at the owner's expense, and that a bond or letter of credit be maintained for this purpose in the County Clerk's Office. The amount shall be equal to a demolition bid of the tower structure, updated every 5 years.
9. No hazardous materials may be stored on the property.
10. Every two (2) years the tower must be inspected by a structural engineer registered in the State of Missouri who is regularly involved in maintenance, inspection, and erection of communication towers.



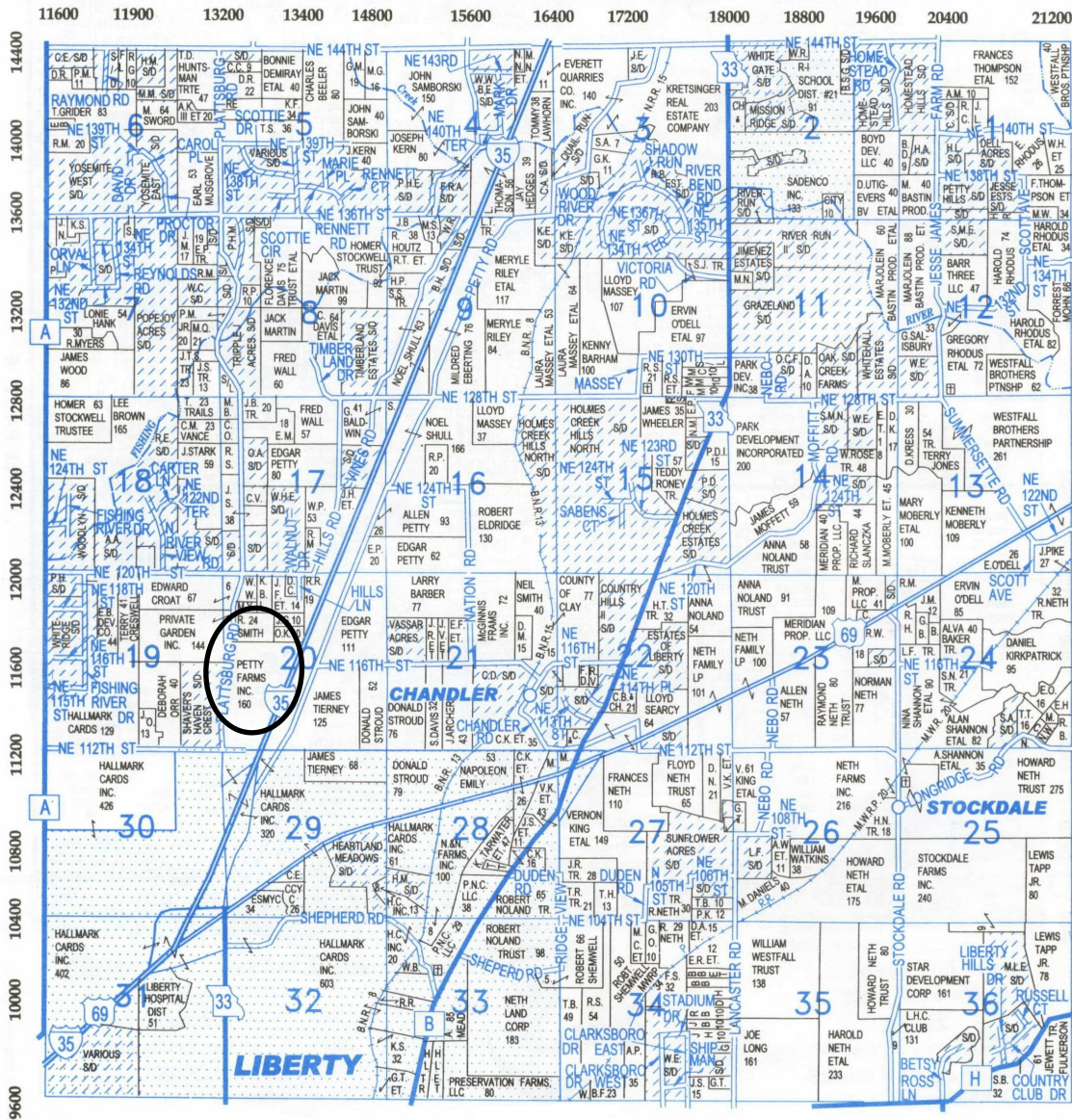
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Attachments

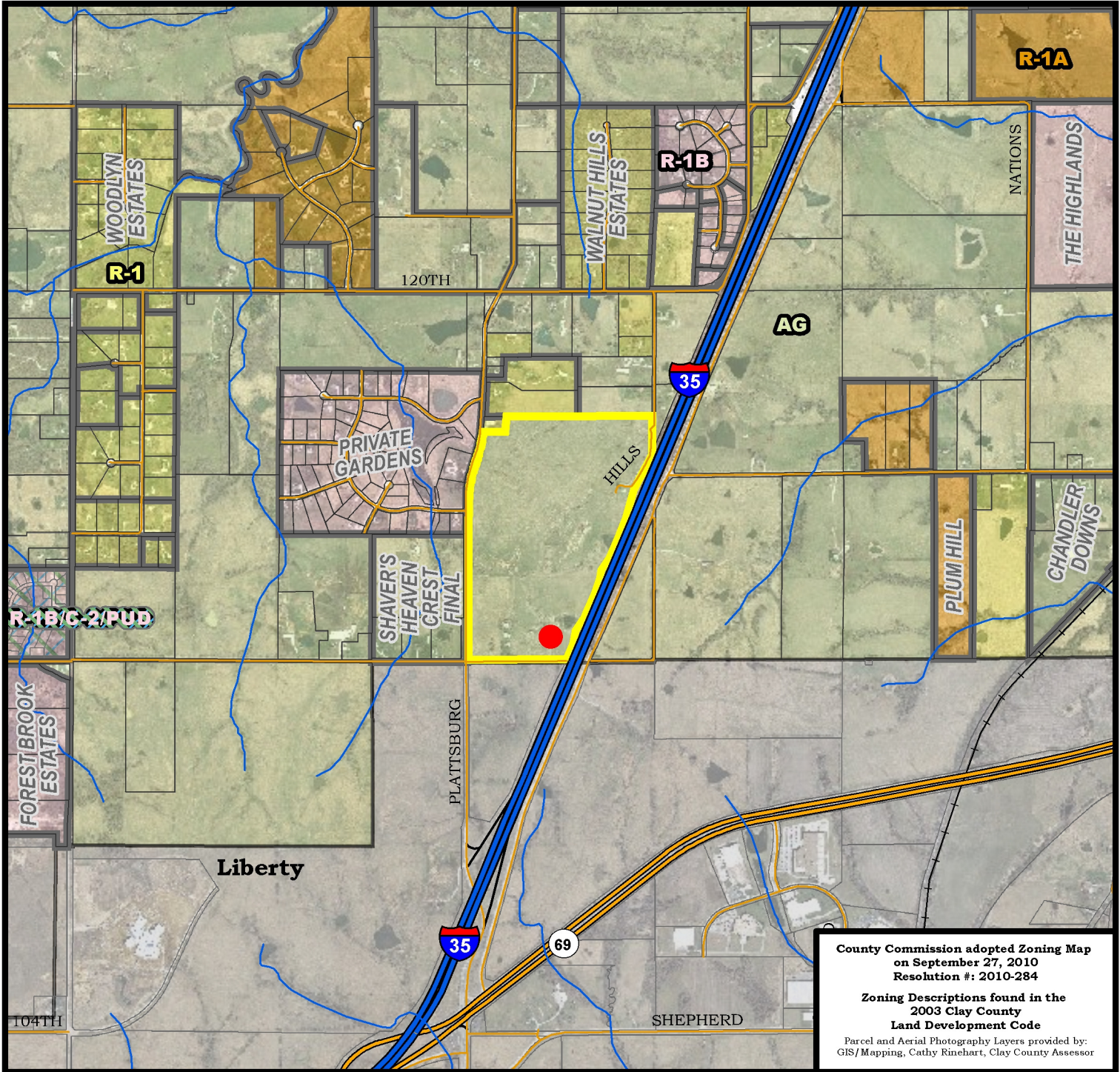
August 11-106 CUP Communication Tower Attachment A - Vicinity Map

TOWNSHIP 52N • RANGE 31W



August 11-106CUP - Petty Farms Cell Tower

Attachment B - Existing Conditions Map



County Commission adopted Zoning Map
on September 27, 2010
Resolution #: 2010-284

Zoning Descriptions found in the
2003 Clay County
Land Development Code

Parcel and Aerial Photography Layers provided by:
GIS/Mapping, Cathy Rinehart, Clay County Assessor

Planning & Zoning Department



1 inch = 2,000 feet
1 inch = 0.38 miles

LEGEND

- Subject Property
- Cell Tower Location
- parcel
- ~~~~~ Streams (EPA)
- Railroads

- Roads
- Interstates
- State Highways
- Local Roads
- Highway Ramps

- Subdivisions
- County Boundaries
- 2011 City Limits
- Parks

- AG
- R-1
- R-1A
- R-1B
- R-3
- C-1
- C-2
- C-3
- I-1
- I-2
- OP
- R-1A/C
- AG/PUD
- R-1B/PUD
- I-1/PUD
- R-1A/I-1/PUD
- R-1B/C-2/PUD